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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,877	12/08/2003	James M. Sheffield	03-008	1159
7590	04/15/2005		EXAMINER	
Randy Shay PO Box 2607 Fairfax, VA 22031			SMITH, JAMES G	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,877

Applicant(s)

SHEFFIELD, JAMES M.

Examiner

James G. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-11 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/8/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the submitted drawings appear to be informal photographs that are blurred and unreadable in part. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koehler in view of any of Clark, Pearson or Tovar.

Koehler shows the claimed invention except for the use of a magnetic member in the striking face of the head to hold a nail in place. Any of Clark, Pearson or Tovar suggests that a hammer can be made with a magnet within the striking face to hold a nail in place. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Koehler by using a magnet in the striking face to hold

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a nail in place because any of Clark, Pearson or Tovar suggests the use of such a magnet for the same purpose.

4. Claims 1-3 and 8-10 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et. al. in view of any of Clark, Pearson or Tovar, for the reason stated in paragraph 3, above.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et. al. in view of any of Clark, Pearson or Tovar as applied to claims 1-3 and 8-10 above, and further in view of Crookston (671).

Walsh et. al., as modified by any of Clark, Pearson or Tovar, shows the claimed invention except for the use of threaded members in the openings to function as gauges for shingles. Crookston (671) suggests that a shingle tool can use threaded members within apertures or slots to function as a gauge. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Walsh et. al. by using threaded members in the apertures because Crookston (671) suggests the use of such threaded members that function as a shingle gauge that is adjustable.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koehler in view of any of Clark, Pearson or Tovar as applied to claims 1-3 and 8-10 above, and further in view of Crookston (629).

Koehler, as modified by any of Clark, Pearson or Tovar, shows the claimed invention except for the use of a bolt or bolts to hold a removable blade within a depression on the head. Crookston (629) suggests that a shingle tool can be made

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with a removable cutting blade within a depression held in place by a bolt or bolts. It would therefore be obvious to one skilled in the art at the time the invention was made to modify Koehler by using a depression to hold a removable blade because Crookston (629) suggests the use of such a depression in a shingle tool to hold a removable blade therein by means of a bolt or bolts.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et. al. in view of any of Clark, Pearson or Tovar and Crookston (671) as applied to claim 6 above, and further in view of Crookston (629), for the reason stated in paragraph 6 above.

Allowable Subject Matter

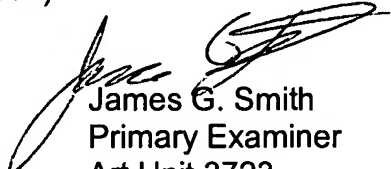
8. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The remaining prior art is cited as of interest at this time.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James G. Smith whose telephone number is 571-272-4496. The examiner can normally be reached on M-Th (7:05- 4:35) Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James G. Smith
Primary Examiner
Art Unit 3723

jgs
4/13/05